

## **TABLE OF CONTENTS**

	<b><u>Page(s)</u></b>
TABLE OF CONTENTS.....	i-ii
TABLE OF AUTHORITIES.....	iii-ix
MEMORANDUM OF POINTS AND AUTHORITIES.....	1-25
I.    STANDARD OF REVIEW .....	1-2
II.   TAITZ and L.O.O.T are NOT IMMUNE by the COMMUNICATIONS DECENCY ACT, 47 U.S.C. 230:.....	2-4
III.  TAITZ and L.O.O.T.’S CLAIMS OF IMMUNITY and/or PROTECTION by <i>CAL. CIV. CODE</i> §47 FAILS:.....	4-7
IV.   PLAINTIFFS WILL PREVAIL on their 6th CAUSE OF ACTION, <i>CAL. CIV. CODE</i> 1798.85:.....	7-8
V.    PLAINTIFFS 1st through 4th Causes of Action – (Invasion of Privacy):.....	8-9
A.   Plaintiffs 1st Cause of Action – Willful and Intentional Intrusion upon Plaintiffs Solitude, Seclusion and Private Affairs - Invasion of Privacy.....	10-11
B.   Plaintiffs Second Cause of Action, Public Disclosure of Private Facts is Properly Pled against Taitz by and through L.O.O.T.....	11-12
C.   Plaintiffs 3rd Cause of Action – False Light Invasion of Privacy.....	12-13
D.   Plaintiffs 4th Cause of Action Misappropriation of Name and Like.....	13-14

## **TABLE OF CONTENTS**

	<b><u>Page(s)</u></b>
VI. PLAINTIFFS WILL PREVAIL UNDER THE PRIVACY ACT, <i>CAL. CIVIL CODE</i> SECTION 1798.53.....	15-16
VII. PLAINTIFFS LIBERI and OSTELLA HAVE PLED SUFFICIENT FACTS TO SUPPORT THEIR CYBER-STALKING CLAIMS.....	16-18
VIII. PLAINTIFFS 8th CAUSE OF ACTION – DEFAMATION per se, SLANDER and LIBEL, per se.....	18-19
IX. PLAINTIFFS WILL PREVAIL ON THEIR EMOTIONAL DISTRESS CLAIMS.....	19
X. PLAINTIFF LIBERI WILL PREVAIL ON HER MALICIOUS PROSECUTION and ABUSE OF PROCESS CAUSE OF ACTIONS.....	19-24
A. Malicious Prosecution Claim .....	20-22
B. Abuse of Process Claim.....	22-24
XI. PLAINTIFFS BELIEVE L.O.O.T. is a LEGAL ENTITY.....	24-25
XII. CONCLUSION.....	25

## TABLE OF AUTHORITIES

<u>CASES</u>	<u>Page(s)</u>
<i>American Economy Insurance Co. v. Reboans, Inc.</i> , 852F. Supp. 875, 879-880 (N.D. Cal. 1994).....	14
<i>Ashcroft v. Iqbal</i> , (2009) 129 S.Ct. 1937, 173 L.Ed.2d 868 (.....	2
<i>Barnes v. Yahoo!, Inc.</i> , 570 F.3d 1096 (9 <sup>th</sup> Cir.2009).....	4
<i>Barquis v. Merchants Collection Assn.</i> (1972) 7 Cal.3d 94, 101 Cal. Rptr. 745, 496 P.2d 817.....	23
<i>Barrett v. Rosenthal</i> (2006) 30 Cal. 4 <sup>th</sup> 33, 51 Cal. Rptr.3d 55.....	3
<i>Batzel v. Smith</i> , 333 F.3d 1018 (9 <sup>th</sup> Cir.2003).....	4
<i>Bell Atl. Corp. v. Twombly</i> , 550 U.S. 544, 127 S. Ct. 1955, 167 L.Ed.2d 929 (2007).....	2
<i>Bradley v. Hartford Accident &amp; Indem. Co.</i> , (1973) 30 Cal. App. 3d 818 .....	5, 6
<i>Carafano v. Metroplash.Com. Inc.</i> , 339 F.3d 1119 (9 <sup>th</sup> Cir. 2003).....	3, 4
<i>Carney v. Rotkin, Schmerin &amp; McIntyre</i> (1988) 206 Cal.App.3d 1513, 254 Cal. Rptr. 478.....	7
<i>Cayley v. Nunn</i> , (1987) 190 Cal. App. 3d 300, 236 Cal. Rptr. 385.....	6, 7
<i>Coleman v. Gulf Ins. Group</i> , (1986) 41 Cal. 3d 782, 226 Cal., Rptr. 90, 718 P.2d 77, 62 A.L.R. 4 <sup>th</sup> 1083.....	23
<i>Comedy III Productions, Inc. v. Gary Saderup, Inc.</i> (2001) 25 Cal 4 <sup>th</sup> 387.....	14
<i>Contemporary Services Corp. v. Staff Pro Inc.</i> , 61 Cal. Rptr. 3d 434, (Cal. App. 4 <sup>th</sup> Dist. 2007).....	21

# **TABLE OF AUTHORITIES - Continued**

<b><u>CASES</u></b>	<b><u>Page(s)</u></b>
<i>Conrad v. U.S.</i> 447 F.3d 760 (9 <sup>th</sup> Cir. 2006).....	21
<i>Edwards v. Centex Real Estate Corp.</i> (1997) 53 Cal.App.4th 15, 61 Cal.Rptr.2d 518.....	6
<i>Evans v. Unkow</i> , (1995) 38 Cal. App. 4th 1490 [45 Cal.Rptr.2d 624].....	12
<i>Fair Housing Council of San Fernando Valley v. Roommates, Com, LLC</i> 521 F.3d 1157, 1167-68 (9th Cir.2008).....	4
<i>Fisher v. Larsen</i> , (1982) 138 Cal. App. 3d 627, 640 [188 Cal. Rptr. 216].....	12
<i>Floro v. Lawton</i> , (1960) 187 Cal. App. 2d 657, 10 Cal. Rptr. 98 .....	21
<i>Forsher v. Bugliosi</i> , (1980) 26 Cal. 3d 702 [163 Cal. Rptr. 628].....	9
<i>Fuhrman v. California Satellite Systems</i> (1986) 179 Cal.App.3d 408, 231 Cal.Rptr.113.....	7
<i>Gertz v. Robert Welch, Inc.</i> , 418 U.S. 323 (1974).....	19
<i>Goddard v. Google</i> , No. C 08-2738 JF (PVT), 2008 WL 5245490 (N.D. Cal. Dec. 17, 2008).....	4
<i>Gogue v. MacDonald</i> , (1950) 35 Cal. 2d 482, 218 P. 2d542, 21 A.L.R. 2d 639 .....	21
<i>Gomez v. Garcia</i> , (1980) 112 Cal. App. 3d 392, 169 Cal. Rptr. 350 .....	21
<i>Guillory v. Godfrey</i> , 134 Cal. App. 2d 628 [286 P.2d 414] (2d Dist. 1955).....	19
<i>Hardy v. Vial</i> , (1957) 48 Cal. 2d 577, 311 P.2d 494, 66 A.L.R. 2d 739.....	21

# **TABLE OF AUTHORITIES - Continued**

## **CASES**

## **Page(s)**

<i>Hill v. National Collegiate Athletic Assn.</i> (1994) 7 Cal. 4 <sup>th</sup> 1, [26 Cal. Rptr. 2d 834].....	9
<i>Hilton v. Hallmark Cards</i> , 580 F.4d 874, 889 fn. 12, (9th Cir. 2009).....	14
<i>Jennifer M. v. Redwood Women's Health Ctr.</i> , (2001) 88 Cal.App. 4th 81 .....	15
<i>Jenkins v. McKeithen</i> , 395 U.S. 411, 89 S.Ct. 1843, 23 L.Ed.2d 404 (1969).....	1
<i>Kinnamon v. Staitman &amp; Snyder</i> (1977) 66 Cal.App.3d 893, 136 Cal. Rptr. 321.....	7
<i>Kinsey v. Macur</i> , (1980) 107 Cal. App. 3d 264 [165 Cal. Rptr. 608].....	12
<i>KNB Enters v. Matthews</i> , 78 Cal. App. 4th 362 (2000).....	14
<i>Leibert v. Transworld Systems, Inc.</i> , 32 Cal. App. 4 <sup>th</sup> 1693 [39 Cal. Rptr. 2d 65] (1 <sup>st</sup> Dist. 1995).....	9
<i>Lucas v. Dep't of Corr.</i> , 66 F.3d 245 (9th Cir.1995).....	2
<i>Meadows v. Bakersfield S. &amp; L. Assn.</i> (1967) 250 Cal.App.2d 749, 59 Cal.Rptr. 34.....	22
<i>Michaels v. Internet Entertainment Group</i> , 5 F.Supp.2d 823, 838 (C.D. Cal. 1998).....	14
<i>Mendonado v. Centinela Hosp. Med. Ctr.</i> , 521 F.3d 1097 (9 <sup>th</sup> Cir. 2008).....	1
<i>Neary v. Regents of University of California</i> , 185 Cal. App. 3d 1136 [230 Cal. Rptr. 281] (1st Distr. 1986).....	18, 19

## TABLE OF AUTHORITIES - Continued

<u>CASES</u>	<u>Page(s)</u>
<i>Ochon v. Superior Court</i> , (1985) 39 Cal. 3d 159 [216 Cal. Rptr. 661].....	19
<i>Operating Engineers Local 3 v. Johnson</i> , 110 Cal. App. 4th 180 [1 Ca. Rptr. 3d 552] (1st Dist. 2003).....	12
<i>Oren Royal Oaks Venture v. Greenberg, Bernhard, Weiss &amp; Karma, Inc.</i> (1986) 42 Cal.3d 1157, 1168, 232 Cal.Rptr. 567, 728 P.2d 1202.....	22, 23
<i>Pettitt v. Levy</i> (1972) 28 Cal.App.3d 484, 104 Cal. Rptr. 650.....	6
<i>Rancho La Costa, Inc. v. Superior Court</i> , (1980) 106 Cal. App. 3d 646, 667 [165 Cal. Rptr. 347].....	12
<i>Reader's Digest Assn. v. Superior Court</i> , (1984) 37 Cal.3d 244, 258, [208 Cal. Rptr. 137, 690 P.2d 610].....	12
<i>Reno v. American Civil Liberties Union</i> (1997) 521 U.S. 844, 117 S.Ct. 2329, 138 L.Ed.2d 874.....	4
<i>Rothman v. Jackson</i> , (1996) 49 Cal. App 4th 1134, 57 Cal.Rptr.2d 284.....	5, 6
<i>Rusheen v. Cohen</i> , (2006) 37 Cal. 4th 1048, 1056, 39 Cal. Rptr. 3d 516, 128 P. 3d 713 .....	23
<i>Schwartz v. Thiele</i> , 242 Cal. App. 2d 799 [51 Cal. Rptr. 767] (2d Dist. 1966).....	9, 11
<i>Siam v. Kizilbash</i> , (2005) 130 Cal. App. 4 <sup>th</sup> 1563, 31 Cal. Rptr. 3d 368 .....	23
<i>Silberg v. Anderson</i> (1990) 50 Cal.3d 205, 266 Cal.Rptr. 638, 786 P.2d 365.....	6
<i>Singleton v. Perry</i> , 45 Cal. 2d 489, 289 P.2d 794 (1955).....	21

## TABLE OF AUTHORITIES - Continued

### CASES

### Page(s)

<i>Smith v. Los Angeles Bookhinders Union No. 63</i> , 133 Cal. App. 2d 486 [286 P.2d 194] (2d Dist. 1955).....	18
<i>Smith v. National Broadcasting Co.</i> , 138 Cal. App. 2d 807807 (2nd Dist. 1956).....	9
<i>Soukup v. Law Offices of Herbert Hafif</i> , (2006) 39 Cal. 4 <sup>th</sup> 260, 48 Cal. Rptr. 3d 638, 139 P3d 30 .....	21
<i>Spackman v. Good</i> , (1966) 245 Cal. App. 2d 518 [54 Cal. Rptr. 78].....	19
<i>Spellens v. Spellens</i> , 49 Cal. 2d 210, 317 P.2d 613 (1957).....	23
<i>State Rubbish Collectors Ass’n v. Siliznoff</i> , (1952) 38 Cal. 2d 330 [240 P. 2d 282].....	19
<i>Stubbs v. Abercrombie</i> , (1919) 42 Cal. App. 170, 183 P. 458 .....	22
<i>Sullivan v. County of Los Angeles</i> , (1974) 12 Cal, 3d 710, 117 Cal. Rptr. 241, 527 P.2d 865 .....	21
<i>Taus v. Loftus</i> , (2007) 40 Cal. 4th 683 [54 Cal. Rptr. 3d 775].....	11
<i>Templeton Feed and Grain v. Ralston Purina Co.</i> , (1968) 69 Cal. 2d 461, 72 Cal. Rptr. 344, 446 P.2d 152 .....	23
<i>Timperley v. Chase Collection Service</i> , 272 Cal. App. 2d 697 [77 Cal. Rptr. 782] (2d Dist. 1969).....	12
<i>Vargas v. Giacosa</i> , (1953) 121 Cal. App. 2d 521, 263 P.2d 840 .....	21
<i>Waits v. Frito-Lay, Inc.</i> , 978 F.2d 1093, 1100 (9th Cir. 1992).....	14
<i>Witriol v. LexisNexis Group</i> , 2006 WL 1128036 (N.D.Cal. Apr 27, 2006).....	15, 16

## **TABLE OF AUTHORITIES - Continued**

<b><u>CASES</u></b>	<b><u>Page(s)</u></b>
<i>Younger v. Solomon</i> (1974) 38 Cal.App.3d 289, 113 Cal. Rptr. 113.....	6
<i>Zamos v. Stroud</i> , (2004) 32 Cal.4 <sup>th</sup> 958, 12 Cal. Rptr. 3d 54, 87 P.3d 802 .....	21
<i>Zurich Ins. Co. v. Peterson</i> , (1986) 188 Cal. App. 3d 438, 232 Cal. Rptr. 807 .....	21
 <b><u>FEDERAL STATUTES</u></b>	 <b><u>Page(s)</u></b>
47 U.S.C. §230.....	2
47 U.S.C. §230(c)(1).....	3
47 U.S.C. §230(f)(2).....	3
 <b><u>STATE STATUTES</u></b>	 <b><u>Page(s)</u></b>
Business and Professions Code§6068(d).....	7
California Civil Code §47.....	4, 5, 6
California Civil Code §1708.7.....	17
California Civil Code §1798.53.....	15, 16
California Civil Code §1798.81.....	8
California Civil Code §1798.81.5.....	8
California Civil Code §1798.85.....	7, 8
California Civil Code §3344.....	12



**TABLE OF AUTHORITIES - Continued**

**FEDERAL RULES OF CIVIL PROCEDURE**

**Page(s)**

Federal Rules of Civil Procedure 12(b)(6).....1

**MISC.**

**Page(s)**

6A Cal. Jur. 3d, Assaults and Other Willful Torts §153 (2003).....19

State Bar of California Rules of Professional Conduct 5-120.....7